



# Kentucky Tax Alert



A KRC PUBLICATION FOR THE TAX PROFESSIONAL

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## Kentucky Tax Amnesty Program Mid-Term Grade is A+

*Almost \$6 Million Collected by Midway Point*

At the midpoint of Kentucky's Tax Amnesty campaign, \$5,919,037 has been collected. That represents 4,320 applications filed in August, the first month of the 61-day program which ends Sept. 30.

The almost \$6 million collected in August represents 30 percent of the program's goal of \$20 million in 2002. "The word is out that it's time to get right with the government. To have achieved 30 percent of our goal at the halfway mark of the program is very encouraging," said Dana Mayton, Secretary of the Revenue Cabinet. "During similar state amnesty programs, including Kentucky's 1988 program, most businesses and individuals have traditionally waited to file until the last week," said Mayton. "In 1988, almost 82 percent was paid during the final week of the amnesty period. More than 65 percent of the applications were filed in the last week."

"We attribute the early success of the Amnesty program to recognition by individuals and businesses that participating in amnesty is good citizenship and is a good deal," said Mayton. "You can pay back taxes with no penalties, no fees, no interest, and no questions about why you didn't pay. All information submitted is strictly confidential," Mayton said. Taxpayers do have to pay 100 percent of the tax. "Amnesty is not a pardon. It's a second chance," Mayton said.

At the midpoint in the 2002 program, about half of the applications have come from individuals and about half from businesses. However, 85 percent of receipts have come from businesses while only 15 percent from individuals. "This is comparable to the 1988 campaign," said Mayton.

Certain property taxes, eligible for amnesty for the first time, have brought in \$925,000 of which \$342,000 will be returned to local taxing jurisdictions including school districts. "Property taxes have been a pleasant surprise and we are particularly pleased to be sending some badly needed funding back to the locals," said Secretary Mayton.

Sales and use tax is the leader in receipts with \$2,748,000, followed by individual income tax with \$840,000. At the midway point, applications have been received from 119 of Kentucky's 120 counties, 42 states, and the District of Columbia. Also, 10 applications have been received from Canada.

The Tax Amnesty Web site, [www.amnesty.ky.gov](http://www.amnesty.ky.gov), has received more than 66,000 hits. Amnesty call volume to the campaign's toll-free 1-877-



ONLY-TAX number has exceeded 11,000. "The tremendous interest in the program demonstrates that taxpayers want a fresh start. They want to pay their fair share. Amnesty provides a way for those behind in their taxes to face their responsibilities instead of the consequences," said Mayton. "After amnesty ends on Sept. 30, the General Assembly has instructed Revenue to be even tougher in our delinquent tax collection efforts," Mayton said.

"Tax Amnesty is a rare opportunity for those who live, work, or do business in Kentucky to pay any back state taxes they owe without penalties, interest, or prosecution. It's time to get right with the government," explained Governor Paul Patton during the campaign launch on Aug. 1.

Tax Amnesty includes all state taxes directly administered by KRC. Property taxes levied on real estate, motor vehicles, and motorboats payable to local officials are not included. The program applies to back taxes incurred on or after Dec. 1, 1987, and prior to Dec. 1, 2001. Virtually all taxpayers are eligible to participate in the program.

For more information, visit [www.amnesty.ky.gov](http://www.amnesty.ky.gov) or call the Amnesty toll-free number 1-877-ONLY-TAX (1-877-665-9829). Amnesty applications are available at the offices of Property Valuation Administrators and at KRC's taxpayer service centers throughout the state. The applications can also be downloaded from the Amnesty Web site.

For More Information:

Call 1-877-ONLY-TAX

(1-877-665-9829)

Mon.—Fri. 8:00 a.m. to 5:30 p.m.

Or visit our Web Page at [www.amnesty.ky.gov](http://www.amnesty.ky.gov)

## Taxpayers Should Inform KRC of Address Changes

Taxpayers whose addresses changed during the past year should inform KRC of their new address so individual income tax forms are sent to the proper location.

Send address change notifications to Kentucky Revenue Cabinet, 1266 Louisville Road, Frankfort, KY 40601.



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## Court Case Updates

**Sales and Use Tax**—In *Woodward, Hobson and Fulton, L.L.P. v. Revenue Cabinet, Ky. App., 69 S.W.3d 476 (2002)*, the issue before the Court of Appeals was whether a law firm was required to pay use tax upon charges for photocopies of medical records acquired from out-of-state health care providers for use by the law firm in litigation it was handling on behalf of clients. The Kentucky Board of Tax Appeals (KBTA) and Jefferson Circuit Court had ruled that use tax had properly been assessed.

The Court of Appeals disagreed with the tribunals below and held that use tax did not apply in this situation. The Court stated:

We are persuaded by Woodward's argument that providing copies of medical records is merely incidental to the service rendered. A patient's medical records do not exist independently of the medical service rendered. The records cannot be released without the patient's consent. The records, themselves, have no intrinsic value. In essence, their only value is evidence of the services rendered—diagnosis and treatment—the product of the medical provider's skill.

In arriving at its decision, the Court of Appeals also pointed to recent Kentucky Attorney General opinions concluding that sales tax did not apply to charges for the provision of copies of public records pursuant to Open Records Act requests. See **98-ORD-88; 99-ORD-102**. The Attorney General had opined that the discharge of the statutory duty imposed by the Open Records Act could not be treated as a sale subject to sales tax.

The Court of Appeals' opinion then refers to various statutory provisions governing medical records and concluded as follows:

We do not believe that our Legislature intended for medical providers furnishing copies of patient records in compliance with a statute to be equated with retailers, nor do we believe that applicants for such medical records should be equated with consumers.

The decision of the Court of Appeals is now final.

In *Morton Buildings, Inc. v. Revenue Cabinet, Civil Action No. 01-CI-01341*, the Franklin Circuit Court on July 30, 2002, affirmed a KBTA decision upholding the denial of the taxpayer's use tax refund claim. The taxpayer in this case purchased steel and wood in bulk and manufactured those raw materials into various building components outside Kentucky. The taxpayer

then used these components (e.g., trusses, purlins, corrugated side steel, and roof steel) to erect buildings in Kentucky.

The Franklin Circuit Court held that the requirements of the use tax statute, KRS 139.310, were met in this case and that KRC therefore properly denied the refund claim. Imposition of the use tax was specifically called for by Regulation 103 KAR 26:070 § 6, which states:

In the event any contractor, subcontractor, builder, or contractor-retailer is the manufacturer of the building material or supplies he uses in his construction business, the tax shall apply to the sales price to him of all tangible personal property, which enters into the manufacture of such materials or supplies.

The taxpayer has appealed the circuit court's decision to the Court of Appeals.

In *David V. Hall d/b/a Cardinal View Farm v. Revenue Cabinet, K01-R-28*, at issue was the requirement of KRS 131.110(1) that a taxpayer's protest of a tax assessment "be accompanied by a supporting statement setting forth the grounds upon which the protest is made." In this case, the taxpayer's protest spent three years in KRC's Division of Protest Resolution during which the taxpayer "requested and was granted numerous extensions of time to file a supporting statement, but failed to ever file anything other than a general denial of the liability."

KRC issued a final ruling denying the taxpayer's protest and the taxpayer appealed that final ruling to the KBTA. KRC moved to dismiss this appeal due to the taxpayer's failure to comply with KRS 131.110(1).

On July 3, 2002, the KBTA entered Order No. K-18689 granting KRC's motion to dismiss. The KBTA held that the supporting statement requirement of KRS 131.110(1) imposes an obligation upon a taxpayer "to provide financial statements, records or some other documentation that would allow the [KRC] some basis for reconsideration" of the assessment. Moreover, the KBTA ruled, KRS 131.110(1) "is mandatory in nature and, therefore, a taxpayer who failed to submit the required documentation failed to preserve his right to review of a delinquency assessed by the [KRC] for sales and use taxes."

This KBTA decision is now final.



## Tobacco Buydown Receipts

Kentucky retailers must pay a 6 percent sales tax on their gross receipts from retail sales. This tax is collected from customers based upon the total sales price of the product sold. It has recently come to KRC's attention that there may be confusion among some retailers on how to calculate sales tax when a tobacco buydown promotion is in effect. The buydown program involves a sales promotional arrangement between retailers and tobacco manufacturers that reduces the price of designated brands to the end consumer for a specific period of time. The manufacturer requires the retailer to reduce the amount charged to the customer based upon the predetermined unit price the manufacturer agrees to pay the retailer on each sale. Because the buydown receipts in this type of arrangement are directly tied to the number and unit price of tobacco products sold at retail, the total sales price subject to sales tax includes the amounts paid to the retailer by both the customer and the tobacco manufacturer.

In essence, this program is the same in character as a sale made through the use of a manufacturer's coupon. The value of a manufacturer's coupon which a retailer receives after the sale of merchandise to the consumer is part of the selling price subject to Kentucky sales tax. According to Kentucky



Revised Statute 139.130, "sales price" means the total amount for which tangible personal property is sold, valued in money, whether paid in money or otherwise.

Occasionally, consumers may question the amount of tax displayed on their receipt because of confusion regarding the actual selling price of an item. To ease efforts to collect sales tax on the correct receipts, retailers should display the full sales price of the tobacco product prior to showing the adjusted price for the buydown amount. For example, if a carton of cigarettes normally sells for \$25 and the buydown amount is \$5, then the customer will pay \$20 plus tax on the total sales price of \$25.

### Sample Transaction Receipt

1 carton	\$25.00
Less Mfg. Discount	<u>5.00</u>
<b>Item Total</b>	<b>20.00</b>
Sales Tax (\$25.00 x .06)	<u>1.50</u>
<b>Total</b>	<b>\$21.50</b>

For questions regarding this issue, contact the Sales and Use Section of the Revenue Cabinet for assistance at (502) 564-5170.

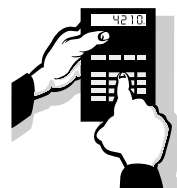
## University of Kentucky Schedules Income Tax Seminars

Each fall, the Department of Agricultural Economics and the Cooperative Extension Service in cooperation with KRC, the Kentucky State Board of Accountancy, and the Kentucky Bar Association, present a series of tax seminars throughout the state. The seminars are designed to present updates for both federal and state tax preparation.

Registration includes the University workbook, CCH Federal Tax Handbook, Kentucky Revenue Cabinet Workbook and various publications. Continuing Education Credits and Certificates of Achievement are awarded for completing the seminars.

In 2002, the Income Tax Seminars will include the topics such as:

- new legislation
- rulings and cases
- individual taxpayer issues
- small business issues
- agricultural issues
- opportunities and obstacles of business entities
- issues from the IRS
- recapture provisions
- education provisions
- retirement
- fringe benefits
- ethics
- tax rates and tables



This year the seminars will be held at the following locations and on the following dates:

Dates	Location Name	Location
Nov. 12 and 13	Lexington #1 Seminar	Holiday Inn North, 1950 Newtown Pike Lexington, KY 40511, 1-859-233-0512
Nov. 14 and 15	Bardstown Seminar	Best Western—General Nelson 411 West Stephen Foster Avenue Nelson Room Bardstown, KY 40004, 1-800-225-3977
Nov. 18 and 19	Jenny Wiley Seminar	Jenny Wiley State Park, 419 Jenny Wiley Rd. Prestonsburg, KY 41653, 1-800-325-0142
Nov. 18 and 19	Paducah Seminar	J.R.'s Executive Inn Riverfront, One Executive Blvd. Paducah, KY 42001, 1-270-443-8000
Nov. 21 and 22	Frankfort Seminar	Holiday Inn Capital Plaza, 405 Wilkinson Blvd. Frankfort, KY 40601, 1-502-227-5100
Nov. 21 and 22	Bowling Green Seminar	Univ. Plaza Hotel and Conv. Ctr., 1021 Wilkinson Trace Bowling Green, KY 42103, 1-800-801-1777
Nov. 25 and 26	Louisville Seminar	The Executive Inn, Canterbury Room 978 Phillips Lane Louisville, KY 40209-1399, 1-502-366-9894
Nov. 25 and 26	Grayson Seminar	Grayson Convention Center, 371 CW Stevens Blvd. Grayson, KY 41143, 1-606-474-6646
Dec. 2 and 3	Northern Kentucky Seminar	Boone County Extension Office, 6028 Camp Ernst Rd. Burlington, KY 41005, 1-859-586-6101
Dec. 3 and 4	Hopkinsville Seminar	Holiday Inn, 2910 Ft. Campbell Blvd. U.S. Hwy 41A Hopkinsville, KY 42240, 1-270-886-4413
Dec. 5 and 6	Somerset Seminar	Center for Rural Development, 2292 So. Hwy 27 Somerset, KY 42501-2905, 1-606-677-6000
Dec. 9 and 10	Owensboro Seminar	Executive Inn Rivermont, One Executive Blvd. Owensboro, KY 42301, 1-270-926-8000
Dec. 10 and 11	Lexington #2 Seminar	Holiday Inn North, 1950 Newtown Pike Lexington, KY 40511, 1-859-233-0512
Dec. 12 and 13	Maysville Seminar	Ramada Inn, 484 Moody Drive Maysville, KY 41056, 1-606-564-6793

If you have questions or would like additional information, please contact Carol Eads at (859) 252-3769 or by e-mail at [ceads@uky.edu](mailto:ceads@uky.edu).

### Forms Requisition Order Form Available in November

Form 40A727, Kentucky Income Tax Forms Requisition, will be published in the November issue of **Tax Alert**. This form is expected to be available from KRC's Online Taxpayer Service Center at [www.revenue.ky.gov](http://www.revenue.ky.gov).

### Motor Fuels Tax Rates Are Set

For the quarter Oct. 1, 2002, through Dec. 31, 2002, the combined tax rate for the Kentucky variable motor fuels normal tax and "Supplemental Highway User Motor Fuel" tax remains 15 cents per gallon on gasoline and liquefied petroleum gas. The rate remains 12 cents per gallon on special fuels.

No adjustment to taxes due will be necessary for gasoline and special fuels held in bulk storage at the beginning of business Oct. 1, 2002.



### KRC Offices Closed for Veterans Day

Pursuant to KRS 18A.190, all KRC offices will be closed on Monday, Nov. 11, 2002, in observance of Veterans Day.

### Annual Tax School Scheduled at U of L

The 50<sup>th</sup> Annual *Louis A. Grief* Tax Institute will be held on Dec. 18–20, 2002, at the University of Louisville. Deadline for early registration will be Dec. 9. Twenty-four hours of CPE credit is provided. For more information, please call (502) 852-5847.



### Tax Credits Available

**Employers! Want a tax credit and a better educated workforce?** Employers can earn a tax credit of up to \$1,250 by allowing employees a minimum of five hours per week paid release time to study for the GED test. Employees can also benefit—they can qualify for a tuition discount by earning their GED through this program. Instruction is given and paperwork completed by the local adult education provider. For more information, contact Dr. B. J. Helton, (502) 564-5114 or [brendaj.helton@mail.state.ky.us](mailto:brendaj.helton@mail.state.ky.us).



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Editors ..... Sarah S. Gilkison  
Betty R. Sanford  
Writer ..... Sarah S. Gilkison  
Production ..... Alice A. Bryant  
Betty R. Sanford  
Mailing List ..... Ladonna C. Ware

Paul E. Patton, Governor      Dana B. Mayton, Secretary

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KRC can be found on the World Wide Web at [www.revenue.ky.gov](http://www.revenue.ky.gov)

The Kentucky Revenue Cabinet  
Mission Statement  
The mission of the Kentucky Revenue Cabinet  
is to...  
Provide courteous, accurate and efficient  
services for the benefit of the Commonwealth  
and administer Kentucky tax laws in a fair and  
impartial manner.

COMMONWEALTH OF KENTUCKY  
REVENUE CABINET  
FRANKFORT, KENTUCKY 40620

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